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7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 MARIA BERMUDEZ; and RUBEN
BERMUDEZ ,

11 Plaintiffs,

12 vs.

13 COUNTY OF LOS ANGELES; and
14 DOES 1-10, inclusive,

15 Defendants.

Case No.

COMPLAINT FOR DAMAGES

1. Unreasonable Search and Seizure—
Excessive Force (42 U.S.C. § 1983)
2. Unreasonable Search and Seizure—
Denial of Medical Care (42 U.S.C.
§ 1983)
3. Substantive Due Process—(42
U.S.C. § 1983)

DEMAND FOR JURY TRIAL

1 7, who were COUNTY sheriff's deputies supervisory officers, and DOES 8-10,
2 who were managerial, supervisory, and policymaking employees of the COUNTY
3 Sheriff Department. On information and belief, at all relevant times, DOES 1-10
4 were residents of County of Los Angeles, California. DOES 1-10 are sued in their
5 individual capacity for damages only.

6 6. At all relevant times, Defendants DOES 1-10 were duly authorized
7 employees and agents of COUNTY, who were acting under color of law within the
8 course and scope of their respective duties as sheriff's deputies and with the
9 complete authority and ratification of their principal, Defendant COUNTY.

10 7. At all relevant times, Defendants DOES 1-10 were duly appointed
11 officers and/or employees or agents of COUNTY, subject to oversight and
12 supervision by COUNTY's elected and non-elected officials.

13 8. In doing the acts and failing and omitting to act as hereinafter
14 described, Defendants DOES 1-10 were acting on the implied and actual permission
15 and consent of COUNTY.

16 9. At all times mentioned herein, each and every COUNTY defendant was
17 the agent of each and every other COUNTY defendant and had the legal duty to
18 oversee and supervise the hiring, conduct and employment of each and every
19 COUNTY defendant.

20 10. The true names of defendants DOES 1 through 10, inclusive, are
21 unknown to Plaintiffs, who therefore sue these defendants by such fictitious names.
22 Plaintiffs will seek leave to amend this complaint to show the true names and
23 capacities of these defendants when they have been ascertained. Each of the
24 fictitious named defendants is responsible in some manner for the conduct and
25 liabilities alleged herein.

26 **JURISDICTION AND VENUE**

27 11. This civil action is brought for the redress of alleged deprivations of
28 constitutional rights as protected by 42 U.S.C. §§ 1983, 1985, 1986, 1988, and the

1 Fourth and Fourteenth Amendments of the United States Constitution. Jurisdiction
2 is founded on 28 U.S.C. §§ 1331, 1343, and 1367.

3 12. Venue is proper in this Court under 28 U.S.C. § 1391(b), because
4 Defendants reside in, and all incidents, events, and occurrences giving rise to this
5 action occurred in, the County of Los Angeles, California.

6
7 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

8 13. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
9 through 14 of this Complaint with the same force and effect as if fully set forth
10 herein.

11 14. On or about November 16, 2014, DECEDENT was in front of his
12 sister's home near the 5300 Block of Verona Street in the City of Los Angeles,
13 California.

14 15. Near the 5300 Block of Verona Street, Ocean Blvd. and 14th Place,
15 DOES 1-5 discharged their firearms at DECEDENT, striking him several times,
16 causing DECEDENT serious physical injury and eventually killing him.

17 16. At the time of the shooting, DECEDENT posed no imminent threat of
18 death or serious physical injury to either DOES 1-5 or any other person.

19 17. On information and belief, DOES 1-5 had no information that
20 DECEDENT had committed a felony.

21 **FIRST CLAIM FOR RELIEF**

22 **Unreasonable Search and Seizure—Excessive Force (42 U.S.C. § 1983)**

23 (Against Defendants DOES 1-5)

24 18. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
25 through 19 of this Complaint with the same force and effect as if fully set forth
26 herein.

27 19. DOES1-5's unjustified shooting deprived DECEDENT of his right to
28 be secure in his persons against unreasonable searches and seizures as guaranteed to

1 DECEDENT under the Fourth Amendment to the United States Constitution and
2 applied to state actors by the Fourteenth Amendment.

3 20. The unreasonable use of force by Defendant DOES 1-5 deprived the
4 DECEDENT of his right to be secure in his person against unreasonable searches
5 and seizures as guaranteed to DECEDENT under the Fourth Amendment to the
6 United States Constitution and applied to state actors by the Fourteenth Amendment.

7 21. As a result, DECEDENT suffered extreme pain and suffering and
8 eventually suffered a loss of life and of earning capacity. Plaintiffs have also been
9 deprived of the life-long love, companionship, comfort, support, society, care, and
10 sustenance of DECEDENT, and will continue to be so deprived for the remainder of
11 their natural lives. Plaintiffs are also claiming funeral and burial expenses.

12 22. As a result of the conduct of DOES 1-5, they are liable for
13 DECEDENT's injuries, either because they were integral participants in the
14 excessive force, or because they failed to intervene to prevent these violations.

15 23. This use of deadly force was excessive and unreasonable under the
16 circumstances. Defendants' actions thus deprived DECEDENT of his right to be
17 free from unreasonable searches and seizures under the Fourth Amendment and
18 applied to state actors by the Fourteenth Amendment.

19 24. The conduct of DOES 1-5 was willful, wanton, malicious, and done
20 with reckless disregard for the rights and safety of DECEDENT and therefore
21 warrants the imposition of exemplary and punitive damages as to Defendants DOES
22 1-5.

23 25. Plaintiffs bring this claim as successors-in-interest to the DECEDENT,
24 and seek both survival and wrongful death damages for the violation of
25 DECEDENT's rights.

26 26. Plaintiffs also seek attorney fees under this claim.
27
28

SECOND CLAIM FOR RELIEF

Unreasonable Search and Seizure—Denial of Medical Care (42 U.S.C. § 1983)

(Against Defendants DOES 1-5)

27. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 28 of this Complaint with the same force and effect as if fully set forth herein.

28. On information and belief, after shooting DECEDENT multiple times, DOES 1-5 did not immediately summons medical attention for the DECEDENT.

29. After the responding medical providers arrived on scene, DOES 1-5 denied the medical providers access to DECEDENT for several minutes, while DECEDENT bled profusely in the street as a result of his gunshot wounds and ultimately died. Further, the involved deputies did not have information that there were outstanding suspects, thereby making it unsafe for the medical providers on scene to begin rendering medical aid to DECEDENT.

30. The denial of medical care by Defendant Does 1-5 deprived DECEDENT of his right to be secure in his person against unreasonable searches and seizures as guaranteed to DECEDENT under the Fourth Amendment to the United States Constitution and applied to state actors by the Fourteenth Amendment.

31. As a result, DECEDENT suffered extreme pain and suffering and eventually suffered a loss of life and earning capacity. Plaintiffs have also been deprived of the life-long love, companionship, comfort, support, society, care, and sustenance of DECEDENT, and will continue to be so deprived for the remainder of their natural lives. Plaintiffs are also claiming funeral and burial expenses.

32. Defendant Does 1-5 knew that failure to provide timely medical treatment to DECEDENT could result in further significant injury or the unnecessary and wanton infliction of pain, but disregarded that serious medical need, causing DECEDENT great bodily harm and death.

1 40. As a result of DOES 1-5's excessive force and failure to intervene,
2 DECEDENT died. Plaintiffs MARIA BERMUDEZ and RUBEN BERMUDEZ
3 were thereby deprived of their constitutional right of familial relationship with
4 DECEDENT.

5 41. Does 1-5, acting under color of state law, thus violated the Fourteenth
6 Amendment rights of MARIA BERMUDEZ and RUBEN BERMUDEZ to be free
7 from unwarranted interference with their familial relationship with DECEDENT.

8 42. The aforementioned actions of DOES 1-2, along with other
9 undiscovered conduct, shock the conscience, in that they acted with deliberate
10 indifference to the constitutional rights of DECEDENT and Plaintiffs MARIA
11 BERMUDEZ and RUBEN BERMUDEZ, and with purpose to harm unrelated to
12 any legitimate law enforcement objective.

13 43. Defendants DOES 1-5, acting under color of state law, thus violated the
14 Fourteenth Amendment rights of DECEDENT and Plaintiffs.

15 44. As a direct and proximate cause of the acts of DOES 1-5, DECEDENT
16 experienced severe pain and suffering and lost his life and earning capacity.
17 Plaintiffs suffered extreme and severe mental anguish and pain and have been
18 injured in mind and body. Plaintiffs have also been deprived of the life-long love,
19 companionship, comfort, support, society, care and sustenance of DECEDENT, and
20 will continue to be so deprived for the remainder of their natural lives. Plaintiffs are
21 also claiming funeral and burial expenses.

22 45. As a result of the conduct of Does 1-5, they are liable for
23 DECEDENT'S injuries, either because they were integral participants in the denial
24 of due process, or because they failed to intervene to prevent these violations.

25 46. The conduct of DOES 1-5 was willful, wanton, malicious, and done
26 with reckless disregard for the rights and safety of DECEDENT and Plaintiffs and
27 therefore warrants the imposition of exemplary and punitive damages as to
28 Defendant DOES 1-5.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury.

DATED: March 24, 2015

LAW OFFICES OF DALE K. GALIPO

By _____/s/ Dale K. Galipo
Dale K. Galipo
Eric Valenzuela
Attorneys for Plaintiffs